IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 22488 of 2004(B)

PETITIONER:

THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LIMITED, NO.F.1635, REPRESENTED BY THE GENERAL MANAGER, KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD., CALICUT-2

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENTS:

JOINT REGISTRAR, CO-OPERATIVE SOCIETIES, OFFICE OF THE JOINT REGISTRAR, CO-OPERATIVE SOCIETIES, KOZHIKODE.

ADDL.R2 IMPLEADED

R2. KUNIYIL ANDY, S/O.CHATHU, AGED 68 YEARS, PONMERI AMSOM, PARAMBIL DESOM, VATAKARA TALUK.

ADDL. 2ND RESPONDENT IS IMPLEADED AS PER ORDER DT.16.1.07 IN IA. 848/07.

BY ADV. SRI.N.L.KRISHNAMOORTHY
SRI.K.LAKSHMINARAYANAN
SMT.SATHYA SHREEPRIYA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.22488/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AWARD BY JOINT REGISTRAR, CO-OP. SOCIETIES , KOZHIKODE IN ARC. NO.7/87-88 DT.19.4.89.

EXT.P2:- COPY OF THE EXECUTION PETITION BY SECRETARY IN CHARGE OF PETITIONER-BANK DT.22.2.92 WITH OFFICE NOTE & ENDORSEMENT.

EXT.P3:- COPY OF THE PETITION FOR INTERIM ATTACHMENT FILED BY THE PETITIONER- BANK BEFORE THE RESPONDENT DT.6.11.87.

EXT.P4:- COPY OF THE LETTER FROM THE PETITIONER DT.31.3.92, TO ASST.REGISTRAR, CO-OP. SOCIETIES, VADAKARA .

EXT.P5:- COPY OF THE REPLY BY ASST.REGISTRAR (GENERAL), VADAKARA TO THE PETITIONER DT.22.6.92.

EXT.P6:- COPY OF THE LETTER FROM PETITIONER TO RESPONDENT NO. INSP /2000 DT.17.1.2000.

EXT.P7:- COPY OF THE LETTER NO.AEL 2218/03 FROM THE RESPONDENT TO THE PETITIONER DT.19.6.2000.

RESPONDENTS EXHIBITS

EXT.R3(a):- COPY OF THE SALE CERTIFICATE DT.17.1.05.

EXT.R3(b):- COPY OF THE DELIVERY RECEIPT DT.23.11.05.

EXT.R3(c):- COPY OF THE ORDER DT.8.4.05 IN EA 25/05 AND 43/05 IN EP 8/03 IN ARC 1349/01 BEFORE THE MUNSIFF COURT , NADAPPURAM.

/TRUE COPY/

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KURIAN JOSEPH, J.

W.P.(C) No.22488 of 2004

Dated this the 16th day of March, 2007.

JUDGMENT

Petitioner Bank is aggrieved as no fruitful action has been taken on Ext.P2 execution petition. It is seen from the endorsement that the petition was returned requesting the petitioner to contact the concerned Inspector in the office of the Assistant Registrar, Vadakara. It is submitted that on such an attempt the petitioner was informed that there is no such power. There is no counter affidavit of the first respondent. According to the second respondent, in view of the pendency of C.M.A.No.19 of 2005 on the file of the Sub Court, Vadakara, any effective action in the matter can be taken by the first respondent only subject to the outcome of the said appeal. The petitioner, however, contends that, the subject matter of the appeal does not in any way stand in the way of the first respondent taking action for execution of the award. Be that as it may, since no decision as such has been taken by the first respondent and the first respondent only directed the petitioner to contact the Assistant Registrar and since the Assistant Registrar in turn has

forwarded it to the first respondent and in the absence of any counter affidavit of the first respondent, the writ petition is disposed of with the following directions:

There will be a direction to the first respondent to take appropriate action on Ext.P2 execution petition filed by the petitioner, with notice to the petitioner, the second respondent herein as also the Ayancherry Service Co-operative Bank and any other affected party. The needful shall be done within a period of three months from the date of production of a copy of this judgment. It is made clear that the first respondent shall not delegate action to any other officer and action on the execution petition shall be taken by himself. It is also made clear that the entire contentions including that of limitation advanced by the second respondent are left open to be considered by the first respondent on taking action on Ext.P2.

KURIAN JOSEPH, JUDGE

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